

February 1, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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JOHN CORNYN
Attorney General

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Ms. Katherine Martinez-Vitela
Gary, Thomasson, Hall & Marks
P.O. Box 2888
Corpus Christi, Texas 78403

OR99-0287

Dear Ms. Vitela

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121594.

The Aransas County Independent School District (the "school district"), which you represent, received a request for documents relating to Ms. Nancy Lee. You contend that the requested documents are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with the informer's privilege and also pursuant to sections 552.103, 552.107, and 552.111 of the Government Code. You also imply that the documents may be excepted from disclosure pursuant to section 552.108 of the Government Code.

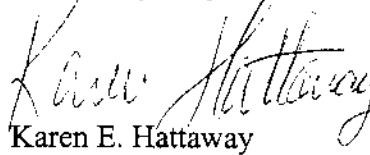
Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile on November 18, 1998, that we required additional information from you in order to render a decision. We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e) of the Government Code, failure to comply would result in the legal presumption that the documents at issue are public information.

You did not provide this office with the information that was requested. Therefore, as provided by section 552.303(e), the documents at issue are presumed to be public information. This presumption of openness can only be overcome by a compelling demonstration that the documents should not be made public. *See, e.g.,* Open Records Decision No. 150 (1977) (presumption of openness overcome by showing that information is made confidential by another source of law or affects

third party interests). Thus, you must release the documents at issue to the requestor unless compelling reasons exist as to why the documents should not be made public.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 121594

Enclosures: Submitted documents

cc: Ms. Lisa Soto
Brim, Arnett, Robinett
2525 Wallingwood Drive, Building 14
Austin, Texas 78746
(w/o enclosures)

¹We note that none of the exceptions to disclosure that you have raised constitute compelling reasons for nondisclosure. However, the applicability of the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, is compelling and overcomes the presumption of openness. Thus, prior to releasing the documents at issue to the requestor, FERPA requires the school district to delete information from the documents to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982), 206 (1978).